

REMARKS

Applicant hereby requests further examination of the subject application in view of the amendments and remarks presented herein.

The combined declaration and power of attorney was defective as filed with the application. One of the inventor's names should read Rodriguez (with a g) not Rodriquez (with a q). A new declaration and power of attorney has been executed and is being submitted herewith.

Applicant has amended claims 1 and 6. The amendments to claims 1 and 6 are supported throughout the specification and particularly on page 4, lines 4-11.

In a first rejection, the Examiner rejected claims 1-5 under 35 USC 102 (b) as being anticipated by Majkrzak (3,506,841). Applicant traverses the rejection in view of the amendments made to claims 1 and 5 (which are included in claims 2-4 by virtue of their dependency on claim 1). Majkrzak discloses a device that vaporizes mercury using heat of combustion. The mercury condenses and transfers heat to the water wherein the buoy is located. Applicant has amended claim 1 to include the limitation: --said thermo-siphon comprising a lower region configured for extracting sensible heat from water that contacts said lower region and an upper region for transferring latent heat to water that contacts said upper region.-- Applicant's amended claims 1-5 are limited to a fully passive thermo-siphon that passively sensible heat from warmer water in contact with the lower portion of the buoy and transfers heat to the cooler water contact with the upper portion of the buoy. Majkrzak requires an active heat source in order to vaporize the mercury heat exchange fluid. Majkrzak cannot possibly anticipate applicant's amended claims because no device described by Majkrzak includes any fully passive thermo-siphon that the added limitation can read on. Therefore the first rejection is overcome and applicant respectfully requests withdrawal of the first rejection.

In a second rejection, the Examiner rejected claims 6-8, 10 and 11 under 35 U.S.C. 103(a) as being unpatentable over Majkrzak (3,506,841) in view of Fleck, Sr. et al. (5,481,904) (Fleck). Applicant traverses the rejection in view of the amendment made to claim 5 (which is included in claims 6-8, 10 and 11 by virtue of their dependency on claim 5), and the arguments presented hereinabove in response to the first rejection. Since Majkrzak cannot possibly anticipate the amendment made applicant's claims, it cannot possibly form the basis for a *prima facie* obviousness rejection of the claims. Applicant contends that Majkrzak cannot be combined with Fleck to lead a person having ordinary skill in the art to make the invention claimed in claims 6-8, 10 and 11. Therefore the second rejection is overcome and applicant respectfully requests withdrawal of the second rejection.

In a third rejection, the Examiner rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Majkrzak (3,506,841) in view of Fleck, Sr. et al. (5,481,904) (Fleck), further in view of Baxter, Jr. et al. (5,654,692) (Baxter). Applicant traverses the rejection in view of the amendment made to claim 5 (which is included in claim 9 by virtue of its dependency on claim 5), and the arguments presented hereinabove in response to the first rejection. Since Majkrzak cannot possibly anticipate the amendment made applicant's claims, it cannot possibly form the basis for a *prima facie* obviousness rejection of the claim. Applicant contends that Majkrzak cannot be combined with Fleck and Baxter to lead a person having ordinary skill in the art to make the invention defined in claim 9. Therefore the third rejection is overcome and applicant respectfully requests withdrawal of the third rejection.

Applicant has reviewed other art considered by the Examiner and asserts that none of Daniels et al., McCoy, Doherty et al., Scholin et al., Siepmann, Keeping et al., Cardamone et al. and Tsutsumi et al. contain any teachings which, alone or in combination with any of the cited references, would lead a person having ordinary skill in the art to make the invention defined in claims 1-11.

Applicants earnestly solicit allowance of claims 1-11, and the issue of U.S. letters patent therefor. Applicant has made every effort to present claims which clearly distinguish over the cited art, and it is believed that all pending claims are now in condition for allowance. However, applicant requests that the Examiner call the undersigned (direct line (865) 574-4178) if anything further is required by the Examiner prior to issuance of a Notice of Allowance for all claims.

Respectfully Submitted,

/Joseph A. Marasco/

Joseph A. Marasco
Patent Agent of Record
Reg. No. 32,798
UT-Battelle, LLC
P.O. Box 2008
Oak Ridge, TN 37831-6258
(865) 574-4178